

B. Remarks:

(i) State of the claims

Claims 1 to 20 are pending in this application. Claims 1, 5, 12, 13 and 14 have been amended in the amendments submitted herewith along the lines suggested by the Examiner. For the convenience of the Examiner, Appendix A is attached hereto containing a marked-up version of the claims amendments.

Claim rejections - 35 USC § 112, second paragraph

Claims 1 to 20 stand rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In view thereof that claims 1, 5, 12, 13 and 14 have been amended as suggested by the Examiner, it is believed that this rejection has been overcome and that claims 1 to 20 are now in order for allowance.

Claim rejections - 35 USC § 102

Claims 1 to 9, 12, 13, 14 and 19 to 20 stand rejected under 35 USC § 102(b) as being anticipated by CLOUGH et al, 1998, Plant Journal, Volume 16, No 6, pages 735 to 743. The Applicant respectfully traverses this objection for at least the following reasons:

Firstly, the filing date of PCT/IB99/01676, of which US 09/807,391 is the USA national phase, is 14 October 1999. As the article by CLOUGH et al was published during December 1998, the publication of the article by CLOUGH et al was thus not more than one year prior to the date of application for a patent in the United States.

Secondly, the PCT application, and thus the US application, claim priority from ZA 98/9427 dated 15 October 1998, which is prior to the publication date of the article by CLOUGH et al. In support of this argument, a certified copy of ZA 98/9427 is

being lodged with this response. The article by CLOUGH et al thus does not qualify as prior art under 35 USC § 102(b) and the Applicant respectfully requests that the rejection over the CLOUGH et al reference be withdrawn.

(ii) Conclusion

The Applicant has submitted amendments and arguments that are believed to overcome all of the outstanding rejections. Therefore, allowance of this case is respectfully solicited.

Respectfully submitted at Canton, Ohio this 5th day of May, 2003.

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Enclosure - Certified Copy of ZA 98/9427

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